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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/997,219	12/23/97	YAMAHARA M	47964

MM91/1026

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EXAMINER	
PARKER,K	
ART UNIT	**PAPER NUMBER**
2871	

DATE MAILED: 10/26/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary	Application No. 08/997,219	Applicant(s) Yamahara
	Examiner Kenneth Parker	Group Art Unit 2871

☒ Responsive to communication(s) filed on *Jun 23, 2000*.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *3* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1-30* is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *1-30* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

Specification

Claims 15-28 and 30 are rejected under 103 due to the discovery of a new reference, Wu, which describes the dispersion of a compensator and the liquid crystal as having to be matched. No primary reference was found with the index of refraction relations addressing off axis viewing combinable with Wu was found for claims 1-4, and 29, so these claims do not have new rejections presented.

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> **(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.**

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor

and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 15-28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haas, US Patent # 5,375,006, in view of Wu and Nishimura et al.

Haas et al discloses a liquid crystal device with the compensator which has the index of refractions that meet the claimed limitations (the fact that they are discotic means that the larger two are substantially equal). Lacking from the disclosure is an indication that the liquid crystal material must have a dispersion that matches the dispersion of the compensator and the dispersion details, and that the result of the matching is that the compensation achieves the result of eliminating reversion. Wu teaches that the dispersion must be matched to enable proper off axis color behavior. Therefore it would have been obvious, to have the dispersion characteristics matched as discussed by Wu for proper off axis color behavior. As the primary reference yields a very high viewing angle, it appears very likely that the elimination of the reversion of color is inherent to the matching of the dispersion characteristics of the to films, combined with the selection of a compensator that enables a wide viewing angle.

Nishimura et al discloses a matching of the index of the two types of layers, and shows that the liquid crystal has a higher dispersion for that purpose, similarly to applicants, providing some evidence that the dispersion characteristics claimed are inherent to the matching of some films. As the choices of the myriad of well known compensators materials available are functional

equivalent alternatives, and the selection of the dispersion of the liquid crystal is inherent to matching the material of the compensator, the selection materials in the claimed ranges would have been obvious to enable selection of any of the equivalent compensator materials.

3. Claims are rejected under 35 U.S.C. 103(a) as being unpatentable over Ito, US Patent # 5,583,679 in view of Wu and Nishimura et al.

Ito discloses a liquid crystal device with the compensator which has the index of refractions that meet the claimed limitations (the fact that they are discotic means that the larger two are substantially equal). Lacking from the disclosure is an indication that the liquid crystal material must have a dispersion that matches the dispersion of the compensator and the dispersion details, and that the result of the matching is that the compensation achieves the result of eliminating reversion. Wu teaches that the dispersion must be matched to enable proper off axis color behavior. Therefore it would have been obvious, to have the dispersion characteristics matched as discussed by Wu for proper off axis color behavior. As the primary reference yields a very high viewing angle, it appears very likely that the elimination of the reversion of color is inherent to the matching of the dispersion characteristics of the to films, combined with the selection of a compensator that enables a wide viewing angle.

4. Claims 15-28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamada et al, US Patent # 5,646,703, in view of Wu and Nishimura et al.

Kamada et al discloses a liquid crystal device with the compensator which has the index of refractions that meet the claimed limitations (the fact that they are discotic means that the larger

two are substantially equal). Lacking from the disclosure is an indication that the liquid crystal material must have a dispersion that matches the dispersion of the compensator and the dispersion details, and that the result of the matching is that the compensation achieves the result of eliminating reversion. Wu teaches that the dispersion must be matched to enable proper off axis color behavior. Therefore it would have been obvious, to have the dispersion characteristics matched as discussed by Wu for proper off axis color behavior. As the primary reference yields a very high viewing angle, it appears very likely that the elimination of the reversion of color is inherent to the matching of the dispersion characteristics of the to films, combined with the selection of a compensator that enables a wide viewing angle.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

5. The claims are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of copending Application

No.08/996,956. Although the conflicting claims are not identical, they are not patentably distinct from each other because the differ only slightly in the wording.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Parker whose telephone number is (703) 305-6202. The fax phone number for this Group is (703) 308-7722. Any inquiry of a general nature or relating to the status of this application or preceding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

October 19, 2000

KENNETH ALLEN PARKER
PATENT EXAMINER
GAU 2871